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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/038,492	01/02/2002	Raymond Lee Call II	DANAI-125A	5529
7663	7590	03/14/2005	EXAMINER	
STETINA BRUNDA GARRED & BRUCKER 75 ENTERPRISE, SUITE 250 ALISO VIEJO, CA 92656			BRINEY III, WALTER F	
			ART UNIT	PAPER NUMBER
			2644	
DATE MAILED: 03/14/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/038,492	CALL ET AL.
	Examiner	Art Unit
	Walter F Briney III	2644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 19 December 2003.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-9 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-9 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 19 December 2003 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. **Claims 1, 2, and 4-9 are rejected under 35 U.S.C. 102(e) as being anticipated by David et al. (US Patent 6,792,125).**

**Claim 1** is limited to a *three-way speaker system having a translatable midrange/tweeter module*. David discloses a pivotable speaker mounting apparatus. See Abstract. In particular, the pivotable speaker comprises a tweeter module (figure 6, element 26). See column 1, lines 6-11. With particular reference to claim 1 of the instant application, David discloses a speaker frame (20) that is clearly symmetrical about a central axis. See figures 5 and 6. David discloses a *cylindrical post* (36') mounted in the opening (74) of *bass speaker* (70) that holds *tweeter* (26) in place against *yoke* (76). See column 5, lines 37-41. Clearly, the *compression module* (36') is disposed along the *central speaker axis*. Also, it is clear that *yoke* or *baffle* (76) is *annular* and its partially spherical inner surface (24') enables the outer surface of element (32) to rotate within. Also, as seen in figure 5, the *yoke* (76) is secured to the *speaker frame* (20) by way of *compression module* (36'). Therefore, David anticipates all limitations of the claim.

**Claim 2** is limited to *the system as recited in claim 1*, as covered by David. As is seen in figures 5 and 6, the *speaker frame* (20) comprises a *cylindrical outer surface*. Therefore, David anticipates all limitations of the claim.

**Claim 4** is limited to *the system as recited in claim 1*, as covered by David. As seen in figure 6, the compression module includes *cylindrical base* (72), *spring* (40) that fits over post (38), and *cylindrical load member* (32), which rotates within the cup opening of module (36'). Therefore, David anticipates all limitations of the claim.

**Claim 5** is limited to *the system as recited in claim 1*, as covered by David. As seen in figure 6, *tweeter module* (26) comprises a *speaker set housed within an outer shell* (i.e. *housing*). Alternatively, *tweeter module* (26) can be considered as a *speaker set residing within housing* (32). Therefore, David anticipates all limitations of the claim.

**Claim 6** is limited to *the system as recited in claim 5*, as covered by David. In the sense that unit (32) is the aforementioned *housing* component of the *tweeter module*, it is clear that the outer surface is *concave*, and *abuts* with the inner surface of *compression member* (36'). Therefore, David anticipates all limitations of the claim.

**Claim 7** is limited to *the system as recited in claim 5*, as covered by David. In the sense that unit (32) is the aforementioned *housing* component of the *tweeter module*, it is clear that its outer surface is *curved*, thus providing *sliding engagement* with the *yoke* (76). Therefore, David anticipates all limitations of the claim.

**Claim 8** is limited to *the system as recited in claim 7*, as covered by David. David discloses that the inner surface (24') of *yoke* (76) is partially spherical (i.e. *curved*)

*inner sidewalls*), thus providing sliding engagement with the *tweeter module*. See column 5, lines 8-11. Therefore, David anticipates all limitations of the claim.

**Claim 9** is limited to *the system as recited in claim 8*, as covered by David. While the dimensions are not explicitly stated, it is inherent that for *yoke* (76) to retain a compressive engagement with *housing* (32), while enabling a portion of the *housing* (32) to pass through the *yoke* (76), its lower walls must be larger than the *housing walls* and its upper walls must be smaller than the *housing walls*. As such, David implicitly states the inherent relative dimensions of the inner surface (24') (i.e. a *first end defining an aperture having a diameter less than that of the housing sidewalls, and a second end defining an aperture having a diameter greater than that of the housing sidewalls*). Therefore, David anticipates all limitations of the claim.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over David in view of Pfister (US Patent 6,161,262).**

**Claim 3** is limited to *the system as recited in claim 1*, as covered by David.

David indicates that *compression member* (36') is resiliently held in place with the main speaker (70) through a *frictional engagement*. See column 5, lines 1-4. However,

David does not specify what type of frictional engagement means is necessary, furthermore, such a general statement does not indicate that post (72) comprises a *slotted outer surface*.

Pfister teaches a clamp assembly. See Abstract. In general, figure 7 depicts an elongated post (22) that corresponds to post (72) of David. Post (22) is frictionally held in place within opening (112) of block member (20), which corresponds to opening (74) of David, by the slotted screw arrangement (114) along the outer surface of post (22). It would have been obvious to one of ordinary skill in the art at the time of the invention to mount the elongated post (72) of David within the speaker opening (74) using the slotted screw arrangement as taught by Pfister because David suggests using a frictional engagement, but does not provide an enabling disclosure as to how one of ordinary skill in the art would provide such an engagement.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Walter F Briney III whose telephone number is 703-305-0347. The examiner can normally be reached on M-F 8am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh Tran can be reached on 703-305-4040. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2644

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

WFB  
3/1/05



SINH TRAN  
SUPERVISORY PATENT EXAMINER